IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

NOTICE OF MOTION NO.193 OF 2005

IN

SUIT NO.193 OF 2005

...

Sonal Corporation & Ors. ...Plaintiffs

v/s.

Sharjil Builders Ltd. & Ors. ...Defendants

...

Mr.Ravi Kadam with Ms.Nitya Mehta i/b Nitya Sunil for the Plaintiff.

Mr.Piyush Shah for Defendants Nos. 3 to 9.

Mr.S.P.Shetye i/b D.S.Sakhalkar for Defendant No.12.

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CORAM: D.K.DESHMUKH, J.

DATED: 3RD MARCH,2006

P.C.:

1. This Notice of Motion is taken out by the Plaintiff. The Plaintiff has filed the suit under Section 6 of the Specific Relief Act for possession of the property. According to the Plaintiff, he was given development right of the property, which admittedly is a vacant land by Defendants Nos. 13 to 21. According to the Plaintiff, he was in possession of the property and he was carrying on construction of sub-station on the property. According to the Plaintiff, Defendant No.1 and Defendant No.2, who are claiming through the Defendant No.3 to Defendant No.10 disturbed the possession of the Plaintiff and therefore, the Plaintiff has filed the present suit.

2. All the Defendants are served. The learned Counsel appearing for the Defendants Nos. 3 to 10

states that the Defendants Nos.3 to 10 had given development rights in relation to the suit property, but that agreement has been cancelled by Defendants Nos. 3 to 10 by letter dated 2-9-2005. He places copy of the letter on record, which is taken on record and marked "X". Defendants Nos. 1 and 2 are served. But none appears for them. Though appearance of the lawyer who has filed power on behalf of the Defendants Nos. 1 & 2 is shown on board. Thus position appears to be, that the suit property is open land of which according to the Plaintiff, Defendants Nos. 1 & 2 are in possession. Defendants Nos. 1 and 2 are not appearing to assert their rights. According to the Defendants Nos. 3 to 10 through whom the Defendants Nos. 1 and 2 are claiming, the contract that Defendants Nos. 3 to 10 had entered into with Defendants Nos. 1 and 2 has been terminated.

3. In my opinion, considering this situation and considering that the suit property is a vacant land, it would be appropriate to appoint the Receiver so that the property can be protected. Motion is, therefore, granted in terms of prayer clause (b). The Receiver shall take physical possession of the

suit property which is described in prayer clause (c) of this motion, if necessary by taking police help and at the expenses of the Plaintiff take steps to protect the property. The Plaintiff shall be at liberty to apply for any further reliefs after the Receiver takes possession of the property. Motion disposed of.

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